Volumes

To : Hamish Maxwell

cc. TG, WTM, GEK, FHD,
JRH, LR, CW, MJ,
(PM EEC);
R.W.Murray, T.M.Kearns,
L.Pollak, R.L.Snyder,
K.Haley (PMI).

FLASH FOR WEEK ENDING JUNE 24, 1983

I. LEGAL

1. EEC

a) On June 14, Jonathan Faull (DG IV/B staff) called D. Holley to ask where things stood and whether we were expecting anything from this Commission. Holley responded that, following H. Maxwell's meeting with Commissioner I. Andriessen on May 10, we were expecting to hear about possibilities of talking settlement. (We think Faull was fishing for information.)

b) On June 15, 1983, John Ferry (Commission DG IV/B) wrote PM and RG saying the Commission found the new RG/PM Agreement (12 April 1983) presented no new issues of fact or law and so they would treat it as part of the Case started in 1981.

2. GERMANY

a) The oral hearing of our appeal to the Berlin Court of Appeal (Kammergericht - Kartellsenat) took place in Berlin, Monday Thursday, June 13 - 16, 1983.
Officially present for the various parties were :
PM : M. Heidenhain
F. Dulles

PM Germany : K. Hetzer

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Rembrandt :	O. Axster
	J. du Plessis
	M. Nicholson
RI / MB :	M. Hirsch
	J. Campbell
	W. Klatten
	H. Raschke
FCO :	Mr. Niederleitinger (VP)
	Mr. Held
	Mr. Vieth
RJR :	M. Oppenhof
	B. Farr
BAT :	Mr. Klosterfeld
Reemtsma :	Mr. Lubbert
	Dr. Wiechermann
US Government :	J. Jurecky (US Mission, Berlin)
	S. Pettee (FTC)

The outline of the hearing was :

FIRST AND SECOND DAYS - International Law : whether and how Germany can, under International law, apply the "effects doctrine" as a basis for jurisdiction for prohibiting PM's investment in RTH.

Experts for appellants :
E. Lauterpacht, QC, London
Prof. I. Brownlie, QC, Oxford
Prof. L. Wildhaber, Basel
Prof. R. Bernhardt, Heidelberg

Experts for RJR :
Prof. F. Mann, London
Prof. K. Meessen, Augsburg

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SECOND DAY - German conflicts of law : whether German law allows an assertion of jurisdiction over a foreign transaction based on alleged effects with Germany.

Experts for appellants :
Prof. W. Fikentscher, Munich

THIRD AND FOURTH DAYS - Competition on the German cigarette market.

Experts for appellants :
B. Roos, PM GmbH, Munich
Prof. H. Berg, Dortmund

Expert for RJR :
Prof. E. Kaufer, Innsbruck

The Court stated, as a preliminary view, that the FCO had gone too far in prohibiting the international transaction and that it would have to consider whether, as a result of the affiliation of PM GmbH and Martin Brinkmann AG, there was a basis for prohibition due to effects in Germany.

On the market issues, the Court stated its preliminary view was that there had not been as much price competition (long-term) as there might have been, but also advertising is a legitimate competitive tool, contrary to the FCO's viewpoint.

b) The decision of the Court will be rendered at 9.30 a.m. in Berlin on Friday, July 1. The Court's opinion, giving the reasons for its decision, will be issued in 4 - 6 months.

3. GENERAL

There will be a meeting with Rembrandt and RI for a general review of the EEC and German cases in London, July 5 and 6, 1983.

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II. OPERATIONS

1. TABACOFINA

Tabacofina proposed on May 15 that the fee for "Chesterfield" for France (90 mio. p.a.) and Italy (25 mio. p.a.) produced under contract be increased from DG 17.68/1000 to DG 23/1000. +30 %

Under the terms of the agreement the fee for Italy is based on cost plus 5%, but for France "agreed prices" must be reached.

EEC management is reluctant to accept any increase in the fee for France. Tabacofina was advised that PM does not agree to any increase for France but proposing DG 19/1000 for Italy (similar to the recent agreement under which they produce "Chesterfield" for EEC duty-free at DG 19/1000).

In addition, Tabacofina have been informed that the price they wanted to produce RYO for us for the Belgian market is too high, and negotiations stopped.

2. CARRERAS - EXPANDED TOBACCO

Messrs. I. Steinberg (Airco) and D. Hultz (PM USA) will pay a routine visit to Carreras at Aylesbury and Peterlee on June 27 and 28, 1983. J. Krauss and a process engineer from FTR will visit Peterlee for 3 days at the end of August to advise what improvement should be made to Carreras Expanded Tobacco operation.

3. ITALY

Further information has been received on the Craven A license agreement with Monital. The agreement has been made by Jurmac who will supply cut filler at a price of approximately $ 6 per kilo, free Italian border, duty paid. Cigarettes will be manufactured in the Florence factory and the licensee will use their own filters. Production is due to start in September 1983.

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III. PLANNING

1. CARLING O'KEEFE

a) "Calgary", an imported beer brewed in Canada by Carling, was launched by Miller simultaneously in three city tests on June 20: (Springfield, Mass; Baltimore, Maryland; Cleveland, Ohio). The product is in the standard Canadian import bottle and sells at a similar price to Molson's. The test is expected to last a year.

b) Precise details and figures for "High Life", launched in four Canadian Provinces on May 18, are not yet available. However, early indications are very encouraging, suggesting an initial market share in excess of 5%. Final figures for June, the first full month, will be available last week of July.

c) Representatives from Lowenbrau, Germany, have been discussing with Carling and Molson's the possibility of a local license for "Lowenbrau" in Canada. They are concerned by the fact that Carling already has "Carlsberg", a competing product. Miller are encouraging Lowenbrau to give Carling favourable consideration.

2. INDIA

The change in the excise tax system, from an ex-factory basis to one based on retail prices, led to delays in introducing both "Peter Stuyvesant" (by GPI) and "Rothmans" (by NTC). "Peter Stuyvesant" is now planned for launch in the fourth quarter 1983, while the "Rothmans" launch will probably take place in September Sept 1983. Discussions on the financial structuring of the deal are still going on and no contract has yet been signed.

3. BANGLADESH

K.K. Modi informed us that Jim Wood of CR has asked if GPI would be interested in investing in Bangladesh, along with RI and Lakson Tobacco. KKM has been advised not to pursue this.

4. PAKISTAN

The first application by Lakson Tobacco for RI to take a 30% equity stake in the company was turned down by the government. A second application will be filed in the near future.

Mr. Samad has raised some objections to the possibility of a PTI/Lakson Tobacco deal but discussions are still continuing.

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5. MALAYSIA

Local manufacture of "Marlboro" by RPM Malaysia began on March 15. In market sales, with "Winston" volume for comparison, were as follows:

	January	February	March	April	May
Marlboro	56.7	61.5	67.3	52.5	56.8 mio.
Winston	54.3	38.5	91.1	54.8	-

This gives "Marlboro" a market share of 5% for the month of April.

6. INDONESIA

E. de Jaegere of Tabacofina advised PM that Faroka has obtained the rights from RI to manufacture certain (unspecified) Carreras' brands in Indonesia.

7. CHESTERFIELD - GERMANY

Recent analysis and smoking tests have shown that Brinkmann did not change the blend of "Chesterfield" when this was launched as a low-price brand.

IV. FINANCIAL

1. UNIT VOLUME

T. Roux has confirmed Rothmans unit volume for the last three years and they are as follows :

Year ending March 31, 1981	162.011 Billion	- 162
Year ending March 31, 1982	158.866 Billion	- 159 (2.0)%
Year ending March 31, 1983	154.183 Billion	- 154 (3.0)%

2. CARROLL INDUSTRIES

The announcement was made on Carroll's results for the six months ending March 31, 1983. The profits have declined from I.Pounds 4.65 Million to I.Pounds 3.98 Million. The comment was made that this was due to the economic situation in Ireland. We will try to obtain further information.

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3. DUNHILL

Further details of the Dunhill results for the year to March 1983 have been received and they are as follows :

Years to	31.3.1982 Mio Pounds	31.3.1983 Mio Pounds	
Sales	72.876	86.777	19.1 %
Profit before tax	5.223	6.263	19.9 %
Tax	(2.435)	(2.211)	(9.2) %
Minorities	(0.041)	(0.015)	—
	2.747	4.037	46.8 %

Profit improvement is due to good results in the fashion-oriented business such as shirts, sweaters and belts while lighters, writing instruments and pipes showed no improvement. Sales were particularly strong to the Far East. In addition, favourable currency movements also contributed to the improved results as well as the reduced effective tax rate which fell from 46.6% to 35.3%.

4. ED. LAURENS INTERNATIONAL

Results have been announced for Ed. Laurens International s.a., Geneva, which is the holding company for Laurens Belgium, Holland and Switzerland. They have reported a 35% reduction in profits from SF 1.92 M to SF 1.24 M and the shortfall is stated to be due to reduction in exports.

5. ROWENTA

There is a proposal to set up a reinvoicing center (jointly owned by Brinkmann and Allegheny) to reinvoice Rowenta Germany's exports. This will generate tax savings for Rowenta and BI and improve the total profits, but could give rise to a Subpart F income problem for PM (estimate in the region of $ 200,000 cash taxpayment per annum).
EH has discussed this with Gunter Klarmann who is well aware of our problem and they are examining ways to reduce the possible impact of this.

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V. GENERAL

SHARE PRICE

Weeks of	JUNE 10, 83	JUNE 17, 83
Rothmens International (Pounds)	116p	118p
RI convertible Pounds/Bonds (DM)	3656	3695
Dunhill (Pounds)	360p	365p
Carrolls (Irish Pounds)	88p	88p
Tabacofina (BF)	2775	2900
RPM Canada (Can.$)		
- Common	46-1/4	46-1/2
- Preferred B	13	14
Carling O'Keefe (Can.$)		
- Common	18-1/4	20-3/4
- Preferred A	22	22-1/2
RPM Australia (Aust.$)	6.90	6.50
Rothmans Industries, N.Z. (NZ$)	1.90	2.00
RPM Malaysia (Sing.$)	3.16	3.20
Rothmans Industries Ltd (Sing.$)	2.26	2.28

Regards.

E. Houminer

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